Temporary Stop Notices

Powers of Discrimination

The Planning and Compensation Act is now law. In Chapter 7 News No 13 we summarized some of the measures in the bill, and these remain more or less unchanged. But there is one significant addition, a new enforcement measure, called a TEMPORARY STOP NOTICE. Its introduction led to a debate in parliament about the different levels of protection afforded to house occupiers and caravan dwellers.

Late in the proceedings, the Government introduced a new measure into Section 52 of the Planning and Compulsory Purchase Act which could affect anyone living in a caravan without planning permission. Councils will now be allowed to use "temporary stop notices" to prevent breaches of planning regulations as soon as they are discovered.

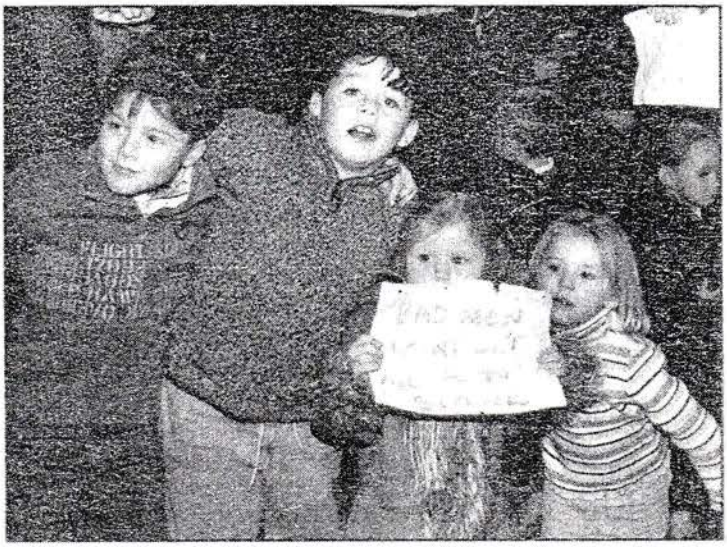
According to the Government's spokesman, Lord Rooker, temporary stop notices are designed to bring an immediate halt to antisocial activities such as "the change of use of someone's back yard to a car paint spraying business". But everybody recognizes that the people most likely to be affected are travellers. Councils will have the power to shift anyone discovered living for more than two days on their own land in a caravan without planning permission (28 days if more than 5 acres). The measures can be used against caravan dwellers, but not against people living in houses or converted buildings.

Permanent stop notices have been in existence for some time. They allow a council to put an immediate halt to development which is under an enforcement notice. Normally an enforcement notice is suspended while it is under appeal, but a stop notice means that the activity must stop before the appeal is heard.

The new temporary stop notices can be imposed even when there is no enforcement notice, ie immediately. They can be imposed for a period of 28 days. The penalty for non-compliance is a maximum fine of £20,000.

No Exemption for Caravan Dwellers

For a number of years, Chapter 7 and travellers rights groups have repeatedly complained that the original stop notice legislation discriminates against caravan and tent dwellers. Stop notices cannot be applied to houses used as dwellings — to prevent people being summarily evicted from their home — but they can be applied to caravans or tents. The exemption for caravans was expressly withdrawn in the 1991 Planning and Compensation Act — an amendment that can only have been made with gypsies in mind.[1] The new temporary measure is just as discriminatory as the parent legislation.



Picture: Coventry Evening Telegraph.

Traveller children demonstrating against eviction from the Bulkington Fields site near Coventry

On 16 March, Lord Avebury, long a champion of travellers' rights in parliament, introduced amendments to the Bill, proposing that the discrepancy between the rights of caravan dwellers and the rights of house dwellers should be removed, both from the new temporary stop notice clause , and from the original permanent stop notice legislation.

The government's spokesman, Lord Rooker responded as follows:

" A major review is underway in the Office of the Deputy Prime Minister at the moment . . . We are currently reviewing circular 1/94 with the intention of providing more support for Gypsies and Travellers to identify their own appropriate sites. We are also reviewing the operation of housing needs assessment to build in consideration of Gypsy and Traveller accommodation needs at an early stage. These changes will take some time to implement. In the meantime, we are keen to ensure that Gypsies and Travellers are not treated unfairly relative to other groups.

"We therefore intend to introduce regulations which will replicate the current exemption for buildings used as dwellings to caravans used as dwellings . . . Although caravans which are occupied as a sole or main residence on site will be allowed to remain until any follow-up enforcement action is taken,

[1] A similar discrimination applies in relation to the periods required to obtain Certificates of Lawful Use — 4 years for a house or converted barn, 10 years for a caravan.

Temporary Stop Notices

any further associated works will be 'caught' by the stop notice.

"We are introducing this exemption through regulations rather than on the face of the Bill for two reasons. First, we want the temporary stop notice to replicate the shape of the existing stop notice; secondly, we want the flexibility to change the position with regard to caravans as further detail of the policy around Gypsy and Traveller accommodation develops and as local authorities enable greater site provision in their areas."

The Minister Squirms

Lord Rooker's promise of "regulations" is somewhat reassuring, but it still begs the question: why aren't caravan-dwellers given the same explicit protection in the Act as house dwellers ? Lord Avebury persisted with this question a week later when the Bill had its third reading in the Lords, warning that the parliamentary Joint Select Committee on Human Rights had stated that it "had serious doubts" whether the temporary stop notice provisions were compatible with European Human Rights legislation.

Lord Rooker's response was a masterpiece of logical contortionism:

"The distinction is made between buildings and caravans because of the nature of the development. The effect of caravans moving onto land and being lived in will be greater than an existing building already situated on land being used for residential purposes."

It probably would be, but so what? This is like comparing old apples with fresh pears. He could equally well have said the reverse: that the effect of erecting a new building and then living in it would be greater than moving into a caravan already situated on the land. In his next sentence, he explains:

"This is because there is an opportunity with buildings for local planning authorities to take enforcement action at any stage when the building is being built, before it is occupied as a residence."

Despite the word "because", it is impossible to detect any causal link between this sentence and Rooker's previous one. The "existing building already situated on the land" has now conveniently metamorphosed into a new building which the authorities have ample opportunity to enforce against, so that it can be compared favourably to the unpreventable overnight arrival of one of those dreadful high-impact caravans.

If Rooker were an honest, clear-thinking man, (which doubtless he is in his private life) rather than a government hireling defending an untenable agenda, he could have laid out the differences between houses and caravans something like this:

"In respect of change of use, the conversion of an existing building to a residential use is likely to have about the same effect as the conversion of an already authorized caravan. In respect of operational development, the bringing onto site of a residential caravan will clearly have far less impact than the construction of a permanent dwelling — though if a permanent dwelling requires a long time for its erection, then there may be an opportunity for enforcement prior to occupation."

Privatization Cock-Up

Lord Rooker's response comes from a government dumped in a mess by its predecessor. In the 1995 Criminal Justice Act the Tory government — in one of its fits of privatization — abolished the obligation for local authorities to provide designated sites and advocated, in Circular 1/94, that gypsies should buy their own sites and apply for planning permission. This is precisely what gypsies have done, and they have usually met with refusal. The situation has come to a head recently with mass enforcement actions, such as those seen at Woodside, Bulkington, Meadowlands, and Ossory Road. As with the convoy in the 1980s, gypsies are banding together in numbers for greater safety, and because there are so few places to go — and this adds to public alarm.

Probably the government genuinely wants to sort this mess out. But the temporary stop notice legislation shows that they are determined to maintain hold of whatever powers they can, even if that involves legislation which is blatantly discriminatory. Travellers are not blind to this discrimination, and if it is enforced, it will only serve to widen the gulf between travellers and the rest of the population.

Right, Let's Go After Alfie!

Literally while we were writing the above paragraphs, we got a call from one Alfie, a traveller living in a truck near Worthing, Sussex. He and his mates had just been threatened with summary eviction by their local authority, who told them they were using "a new power which had just gone through Parliament". This proved to be a temporary stop notice, perhaps the first ever. We advised Alfie to contact the Travellers' Advice Team in Birmingham, and a stiff letter from solicitor Angus Murdoch to the planners, presumably reminding them of Lord Rooker's commitment to "regulations which will replicate the current exemption for buildings used as dwellings", was sufficient to get the council to back off.

Write to Rooker

One other aspect of the debate worth noticing was that while Lord Rooker persistently talked about "Gypsies and Travellers", Lord Avebury twice remarked that the legislation affects not only gypsies and travellers but also "other caravan users." If you are a reader who lives in an unlawful caravan, and you have the time, do write to Lord Rooker, House of Lords, Westminster SW1, and remind him, among other things, that the majority of caravan dwellers in this country are not travellers — over 200,000 people live in statics.